

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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| VIRGIN ORBIT HOLDINGS, INC., <i>et al.</i> ¹ , Debtors. |
| VLADIMIR BOYKO, on behalf of himself and all others similarly situated, Plaintiff, v. VIRGIN ORBIT, LLC, Defendant. |

Chapter 11

Case No. 23-10405 (KBO)

(Jointly Administered)

Adv. Proc. No.

**CLASS ACTION ADVERSARY PROCEEDING COMPLAINT
FOR VIOLATION OF WARN ACT 29 U.S.C. § 2101, ET SEQ.
AND CALIFORNIA LABOR CODE § 1400 ET. SEQ.**

Plaintiff Vladimir Boyko (“Plaintiff”) alleges on behalf of himself and a putative class of similarly situated former employees of Virgin Orbit, LLC (“Defendant”) by way of this Class Action Adversary Proceeding Complaint against Defendant as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action on behalf of himself and other similarly situated former employees who worked for Defendant and who were terminated without cause as part of, or as the result of, mass layoffs and/or plant closings ordered by Defendant on or about April 3, 2023, who

¹ The Debtors in these cases, along with the last four digits of each debtor’s federal tax identification number, are: Virgin Orbit Holdings, Inc. (6914); Virgin Orbit National Systems, LLC (3801); Vieco USA, Inc. (0492); Virgin Orbit, LLC (9648); and JACM Holdings, Inc. (1445). The Debtors’ address is 4022 East Conant Street, Long Beach, CA 90808

were not provided 60 days advance written notice of their terminations by Defendant as required by the Worker Adjustment and Retraining Notification Act (“WARN Act”), 29 U.S.C. § 2101 *et seq.* and the California Labor Code § 1400 *et. seq.* (“CAL-WARN Act”).

2. Plaintiff was terminated along with approximately 675 other similarly situated employees as part of, or as the foreseeable result of mass layoffs or plant closings ordered by Defendant during the 30-day period beginning April 3, 2023.

3. Defendant failed to give Plaintiff and other similarly situated employees of Defendant at least 60 days’ advance notice of their terminations, as required by the WARN Act. Plaintiff and other similarly situated employees of Defendant seek their statutory remedies, pursuant to 29 U.S.C. § 2104 and California Labor Code § 1402.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1334, 1367 and 29 U.S.C. § 2104(a)(5).

5. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O).

6. Venue is proper in this District pursuant to 28 U.S.C. § 1409 and 29 U.S.C. § 2104(a)(5).

THE PARTIES

Plaintiff

7. Plaintiff was employed by Defendant as an EMI/EMC Design and Test Lead from May 2021 until April 3, 2023.

8. Plaintiff is a resident of the state of California.

9. Upon information and belief, at all relevant times, Plaintiff worked at Defendant’s Facility located at 4022 E Conant Str. Long Beach, CA 90808 (the “Long Beach Facility”).

10. On or about March 31, 2023, Plaintiff received a letter dated March 30, 2023, that

stated, in part, “Due to unforeseen financial and capital issues, Virgin Orbit, LLC (“Virgin Orbit”) regrets to inform you that your services will no longer be needed as of April 3, 2023 and your employment with Virgin Orbit will terminate as of that date (i.e., April 3, 2023).”

11. On or about March 31, 2023, other similarly situated employees were informed by Defendant that effective April 3, 2023, they would be terminated from their employment.

12. At no time prior to March 31, 2023, did Plaintiff receive written notice that his employment would be terminated.

13. Plaintiff was terminated without cause.

14. Along with Plaintiff, an estimated 675 other employees of Defendant who worked at, reported to, or received assignments from facilities operated by Defendant were terminated on or about April 3, 2023, without 60 days’ advance written notice.

Defendant

15. Upon information and belief and at all relevant times, Defendant operates a company engaged in providing launch services for small satellites.

16. Defendant and its affiliates JACM Holdings, Inc., Vieco USA, Inc., Virgin Orbit Holdings, Inc. and Virgin Orbit National Systems, LLC are “affiliates” as that term is defined under section 101(2) of the Bankruptcy Code.

17. Upon information and belief, Defendant’s primary office is located at the Long Beach Facility.

18. Upon information and belief, Defendant also operates a facility located at 1223 A Sabovich Street, Mojave, Mojave, California (together with the Long Beach Facility, the “Facilities”).

19. Upon information and belief and at all relevant times, Defendant employed more

than 50 full time employees at the Facilities at the time the terminations were announced on or about March 31, 2023.

20. On April 4, 2023, Virgin Orbit, LLC and four (4) affiliated debtors (collectively, the "Debtors") each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. The Debtors cases are being jointly administered under Case No. 23-10405 (KBO) (Bankr. Case No. 23-10405 (D.I. 43)).

FEDERAL WARN CLASS ALLEGATIONS, 29 U.S.C. § 2104(a)(5)

21. Plaintiff is an aggrieved "person seeking to enforce such liability" and are authorized by Congress to "sue either for [himself] or for other persons similarly situated, or both" by Congress. 29 U.S.C. § 2104(a)(5).

22. Plaintiff brings this representative action pursuant to 29 U.S.C. § 2104(a)(5), suing "for" himself and all other similarly situated former employees.

23. Plaintiff brings this claim for relief for violation of 29 U.S.C. § 2101 *et seq.*, individually and on behalf of all other similarly situated former employees, pursuant to the Federal Rules of Civil Procedure, Rule 23(a) and (b), who worked at, received assignments from, or reported to the Facilities, who were terminated without cause during the 30-day period beginning April 3, 2023 or were terminated without cause as the reasonably foreseeable consequence of the mass layoff and/or plant closing ordered by Defendant during the 30-day period beginning April 3, 2023 and who are affected employees, within the meaning of 29 U.S.C. § 2101(a)(5) (the "WARN Class").

24. The persons in the WARN Class identified above ("WARN Class Members") are so numerous that joinder of all members is impracticable. Although the precise number of such

persons is unknown, it is estimated at about 675 individuals. On information and belief, the facts on which the calculation of that number can be based are presently within the sole control of Defendant.

25. On information and belief, the identity of the members of the class and the recent residence address of each of the WARN Class Members is contained in Defendant's books and records.

26. On information and belief, the rate of pay and benefits that were being paid by Defendant to each WARN Class Member at the time of his/her termination is contained in the books and records of Defendant.

27. Common questions of law and facts exist as to members of the WARN Class, including, but not limited to, the following:

- (a) whether the members of the WARN Class were employees of Defendant who worked at, received assignments from, or reported to the Facilities;
- (b) whether Defendant unlawfully terminated the employment of the members of the WARN Class without cause on their part and without giving them 60 days advance written notice in violation of the WARN Act; and
- (c) whether Defendant unlawfully failed to pay the WARN Class members 60 days wages and benefits as required by the WARN Act.

28. Plaintiff's claims are typical of those of the WARN Class. Plaintiff, like other WARN Class members, worked at, received assignments from, or reported to the Facilities and were terminated without cause during the 30-day period beginning April 3, 2023, due to the mass layoff and/or plant closing ordered by Defendant.

29. At all relevant times, Defendant was an "employer," as that term is defined in 29 U.S.C. § 2101 (a)(1) and 20 C.F.R. § 639(a) and continued to operate as a business until Defendant decided to order a mass layoff or plant closing at the Facilities.

30. Plaintiff will fairly and adequately protect the interests of the WARN Class. Plaintiff has retained counsel competent and experienced in complex class actions, including the WARN Act and employment litigation.

31. Class certification of these claims is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and facts common to the WARN Class predominate over questions affecting only individual members of the WARN Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation – particularly in the context of WARN Act litigation, where individual plaintiff may lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate defendant, and damages suffered by individual WARN Class members are small compared to the expense and burden of individual prosecution of this litigation.

32. Concentrating all the potential litigation concerning the WARN Act rights of the members of the Class in this Court will obviate the need for unduly duplicative litigation that might result in inconsistent judgments, will conserve the judicial resources and the resources of the parties and is the most efficient means of resolving the WARN Act rights of all the members of the Class.

33. The relief sought in this proceeding is equitable.

34. Plaintiff intends to send notice to all members of the WARN Class to the extent required by Rule 23.

CALIFORNIA WARN CLASS ALLEGATIONS, CAL. LABOR CODE § 1401

35. Plaintiff brings the Second Claim for Relief for violation of Labor Code § 1401 on behalf of himself and a class of similarly situated persons pursuant to Labor Code § 1404 and Federal Rules of Civil Procedure, Rule 23(a) and (b), who worked at or reported to Defendant's

Facilities and were terminated without cause beginning on or about April 3, 2023 (the “CAL WARN Class”).

36. The persons in the CAL WARN Class identified above (“CAL WARN Class Members”) are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, the facts on which the calculation of that number can be based are presently within the sole control of Defendant.

37. On information and belief, the identity of the members of the class and the recent residence address of each of the CAL WARN Class Members is contained in the books and records of Defendant.

38. On information and belief, the rate of pay and benefits that were being paid by Defendant to each CAL WARN Class Member at the time of his/her termination is contained in the books and records of Defendant.

39. Common questions of law and fact exist as to members of the CAL WARN Class, including, but not limited to, the following:

- i) whether the members of the CAL WARN Class were employees of the Defendant;
- ii) whether Defendant unlawfully terminated the employment of the members of the CAL WARN Class without cause on their part and without giving them 60 days advance written notice in violation of the CAL WARN Act; and
- iii) whether Defendant unlawfully failed to pay the CAL WARN Class members 60 days wages and benefits as required by the CAL WARN Act.

40. The CAL WARN Class Plaintiff’s claims are typical of those of the CAL WARN Class. The CAL WARN Class Plaintiff, like other WARN Class members, worked at or reported to one of the Facilities and were terminated on or about April 3, 2023, due to the terminations ordered by Defendant.

41. The CAL WARN Class Plaintiff will fairly and adequately protect the interests of the CAL WARN Class. The CAL WARN Class Plaintiff has retained counsel competent and experienced in complex class actions on behalf of employees, including the CAL WARN Act, the federal WARN Act, other similar state laws, and employment litigation.

42. Class certification of these Claims is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the CAL WARN Class predominate over any questions affecting only individual members of the CAL WARN Class, and because a class action superior to other available methods for the fair and efficient adjudication of this litigation – particularly in the context of CAL WARN Class Act litigation, where an individual Plaintiff may lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate Defendant, and damages suffered by individual CAL-WARN Class members are small compared to the expense and burden of individual prosecution of this litigation.

43. Concentrating all the potential litigation concerning the CAL WARN Act rights of the members of the Class in this Court will obviate the need for unduly duplicative litigation that might result in inconsistent judgments, will conserve the judicial resources and the resources of the parties and is the most efficient means of resolving the CAL-WARN Act rights of all the members of the Class.

44. The CAL WARN Class Plaintiff intends to send notice to all members of the CAL WARN Class to the extent required by Rule 23.

FIRST CLAIM FOR RELIEF
VIOLATION OF THE FEDERAL WARN ACT, 29 U.S.C. § 2104 ET SEQ.

45. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

46. At all relevant times, Defendant employed more than 100 employees who in the

aggregate worked at least 4,000 hours per week, exclusive of hours of overtime, within the United States.

47. At all relevant times, Defendant was an “employer,” as that term is defined in 29 U.S.C. § 2101 (a)(1) and 20 C.F.R. § 639(a) and continued to operate as a business until it decided to order mass layoffs or plant closings at the Facilities.

48. At all relevant times, Plaintiff and the other similarly situated former employees were employees of Defendant as that term is defined by 29 U.S.C. §2101.

49. During the 30-day period beginning April 3, 2023, Defendant ordered mass layoffs or plant closings at the Facilities, as that term is defined by 29 U.S.C. § 2101(a)(2).

50. The mass layoffs or plant closings at the Facilities resulted in “employment losses,” as that term is defined by 29 U.S.C. §2101(a)(2) for at least fifty of Defendant’s employees as well as thirty-three percent of Defendant’s workforce at the Facilities, excluding “part-time employees,” as that term is defined by 29 U.S.C. § 2101(a)(8).

51. Plaintiff and the Class Members were terminated by Defendant without cause on their part, as part of or as the reasonably foreseeable consequence of the mass layoffs or plant closings ordered by Defendant at the Facilities.

52. Plaintiff and the Class Members are “affected employees” of Defendant, within the meaning of 29 U.S.C. § 2101(a)(5).

53. Defendant was required by the WARN Act to give Plaintiff and the Class Members at least 60 days advance written notice of their terminations.

54. Defendant failed to give Plaintiff and the Class members written notice that complied with the requirements of the WARN Act.

55. Plaintiff and each of the Class Members are “aggrieved employees” of the

Defendant as that term is defined in 29 U.S.C. § 2104(a)(7).

56. Defendant failed to pay Plaintiff and each of the Class Members their respective wages, salary, commissions, bonuses, health and life insurance premiums, accrued holiday pay and accrued paid time off for 60 days following their respective terminations, and failed to provide employee benefits including health insurance, for 60 days from and after the dates of their respective terminations.

SECOND CLAIM FOR RELIEF
VIOLATION OF CALIFORNIA WARN ACT LAB. CODE, § 1400 *et. seq.*

57. Plaintiff realleges and incorporates by reference all allegations in all proceeding paragraphs.

58. Plaintiff brings the Second Claim for Relief for violation of Lab. Code § 1401 on behalf of himself and a class of similarly situated persons pursuant to Lab. Code § 1404 and Federal Rules of Civil Procedure 23(a) and (b), who worked at, reported to, or received assignments from the Facilities and were terminated without cause on or about April 3, 2023 and within 30 days of that date (the “CAL-WARN Class”).

59. Pursuant to Lab. Code § 1400(b), “[e]mployer” means any person . . . who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary.”

60. Upon information and belief and at all relevant times, Defendant was an employer of the CAL-WARN Class as that term is defined by Lab. Code § 1400(b) because it directly or indirectly owned and operated at least one covered establishment in California that employed several hundred employees.

61. Defendant violated CAL-WARN by terminating Plaintiff’s employment and the employment of other similarly situated employees pursuant to a “mass layoff,” “relocation” or

“termination” as defined in Lab. Code § 1400 on or about April 3, 2023 or thereafter, without giving written notice at least 60 days before the order took effect to: (1) the employees affected by the order and (2) the Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the mass layoff, relocation or termination occurred. The “mass layoff,” “relocation” or “termination” was not necessitated by a physical calamity or act of war.

62. As a result of Defendant’s violation of Lab. Code § 1401, Plaintiff and the other similarly situated employees are entitled to 60 days of back pay under Lab. Code § 1402(a-b).

63. Plaintiff has incurred attorneys’ fees in prosecuting this action and is entitled to an award of attorneys’ fees under Cal. Lab. Code § 1404.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated persons, prays for the following relief as against Defendant:

- A. Certification of this action as a class action;
- B. Designation of Plaintiff as the Class Representative;
- C. Appointment of the undersigned attorneys as Class Counsel;
- D. A judgment in favor of Plaintiff and each of the affected employees equal to the sum of: their unpaid wages, salaries, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for up to 60 days, that would have been covered and paid under the then-applicable employee benefit plans had that coverage continued for that period all determined in accordance with the WARN Act, 29 U.S.C. §2104(a)(1)(A), with the first \$15,150.00 of each Class member’s allowed claim entitled to wage priority claim

treatment under 11 U.S.C. § 507(a)(4) and (5), and any remainder as a general unsecured claim and the remainder as a general unsecured claim.

- E. An allowed administrative priority claim against Defendant under 11 U.S.C. § 503 for the reasonable attorneys' fees and the costs and disbursements that Plaintiff incur in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6);
- F. Interest as allowed by law on the amounts owed under the preceding paragraphs; and
- G. Such other and further relief as this Court may deem just and proper.

Dated: April 4, 2023

Respectfully submitted,

By: /s/ Christopher D. Loizides
Christopher D. Loizides (No. 3968)
LOIZIDES, P.A.
1225 King Street, Suite 800
Wilmington, Delaware 19801
Telephone: (302) 654-0248
Facsimile: (302) 654-0728
E-mail: loizides@loizides.com

OF COUNSEL:

Jack A. Raisner
René S. Roupinian
RAISNER ROUPINIAN LLP
270 Madison Avenue, Suite 1801
New York, New York 10016
Telephone: (212) 221-1747
Facsimile: (212) 221-1747
Email: rsr@raisnerroupinian.com
Email: jar@raisnerroupinian.com

Attorneys for Plaintiff and putative class

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Virgin Orbit Hit with WARN Act Class Action Over 'Foreseeable' Pre-Bankruptcy Layoffs](#)
